

# ADMINISTRATION COMMISSION AGENDA

February 10, 2009

1. **Approval of the minutes of the December 9, 2008, meeting.**
2. **Consideration of a Recommended Order and a Supplement to Recommended Order After Remand issued by the Division of Administrative Hearings in the proceeding of The Vizcayans, Inc., a Florida not-for-profit corporation; Grove Isle Association, Inc., a Florida not-for-profit corporation; Constance Steen; Jason E. Bloch; and Glencoe Neighborhood Association, Inc., a Florida not-for-profit corporation vs. City of Miami and TRG-MH Venture, Ltd., and Mercy Hospital, Inc., a not-for-profit Florida corporation (AC Case No. AC-08-004, DOAH Case Nos. 07-2498GM and 07-2499GM).**

On April 26, 2007, the City of Miami adopted a comprehensive plan amendment through Ordinance number 12911 which changed the designation of a 6.72 acre parcel of land on its Future Land Use Map ("FLUM") from Major Institutional, Public Facilities, Transportation and Utilities to High Density Multifamily Residential. The applicant sought to build a proposed residential development consisting of 300 units on the subject parcel. The comprehensive plan amendment was adopted through the procedure established for a small-scale FLUM amendment in Section 163.3187, FS.

On June 4, 2007, The Vizcayans, Inc., Alvah H. Chapman, Jr., Betty B. Chapman and Cathy L. Jones filed a petition at the Division of Administrative Hearings (DOAH) challenging the FLUM amendment's compliance with Chapter 163, FS. On June 6, 2007, Grove Isle Association, Inc. (Grove Isle), Constance Steen, Jason E. Bloch, and Glencoe Neighborhood Association, Inc., (Glencoe) filed a similar petition challenging the FLUM amendment. On June 13, 2007, the two cases were consolidated, and TRG-MH Venture, LTD., (TRG-MH) the contract vendee and proposed developer of the parcel, filed its Petition to Intervene in support of the challenged amendment. TRG-MH's Petition was followed by the Petition to Intervene filed by Mercy Hospital, the parcel's owner and contract vendor, also in support of the challenged amendment. Both Petitions to Intervene were granted. Petitioners Cathy L. Jones and Alvah H. and Betty B. Chapman voluntarily dismissed their challenges in June, 2007.

An administrative hearing was conducted by DOAH Administrative Law Judge J. Lawrence Johnston on January 22 through 25, 2008, in Miami, Florida. On July 10, 2008, Judge Johnston filed a Recommended Order with the Commission recommending the Commission enter a final order finding the FLUM Amendment adopted by the City of Miami Ordinance 12911 is not "in compliance," as defined by section 163.3184(1)(b), FS. The parties filed exceptions to the DOAH Recommended Order and responses to the exceptions with the Commission.

Upon legal review of the DOAH Recommended Order, it was determined that the Judge Johnston applied the incorrect standard of proof with respect to the local government's determination that the small scale development amendment is related to and consistent with its comprehensive plan. At the October 14, 2008, Cabinet meeting, the Commission authorized the Secretary to enter an Order of Remand remanding the case to DOAH for further proceedings. A Supplement to Recommended Order After Remand was issued by Judge Johnston on October 24, 2008. The Vizcayans and Grove Isle both filed exceptions to the Supplement to Recommended Order After Remand on November 5, 2008, and November 10, 2008, respectively.

**Staff Recommendation:**

To be distributed separately.

**Back-Up:**

DOAH Recommended Order received on July 10, 2008.\*

The Vizcayans filed exceptions to the DOAH Recommended Order on July 24, 2008.\*

Grove Isle, Constance Steen, Jason E. Bloch, and Glencoe filed exceptions to the DOAH Recommended Order on July 25, 2008.\*

The Vizcayans filed amended exceptions to the DOAH Recommended Order on July 28, 2008.\*

Grove Isle, Constance Steen, Jason E. Bloch, and Glencoe filed amended exceptions to the DOAH Recommended Order on July 29, 2008.\*

City of Miami, TRG-MH and Mercy Hospital filed joint exceptions to the DOAH Recommended Order on July 30, 2008.\*

The Vizcayans' response to the City of Miami, TRG-MH and Mercy Hospital's joint exceptions to the DOAH Recommended Order filed on August 4, 2008.\*

Grove Isle, Constance Steen, Jason E. Bloch, and Glencoe's response to the City of Miami, TRG-MH and Mercy Hospital's joint exceptions filed on August 4, 2008.\*

City of Miami, TRG-MH and Mercy Hospital's joint response to The Vizcayans' exceptions filed on August 4, 2008.\*

Commission's Order of Remand issued October 20, 2008.

DOAH Supplement to Recommended Order After Remand issued October 24, 2008.

The Vizcayans' Exceptions to Supplement to Recommended Order After Remand received on November 5, 2008.

Grove Isle's Exceptions to Supplement to Recommended Order After Remand received November 10, 2008.

*\*Items distributed with the October 14, 2008 Agenda.*